NOS. 82-1860 and 82-1862

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

SCHNEIDER MOVING & STORAGE COMPANY, PETITIONER,
AND
PROSSER'S MOVING AND STORAGE COMPANY, PETITIONER,

V.

LORAN W. ROBBINS, ET AL., RESPONDENTS

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

MOTION OF PETITIONER SCHNEIDER MOVING AND STORAGE COMPANY TO INCREASE NUMBER OF COUNSEL ARGUING AND REQUESTING ADDITIONAL TIME FOR ORAL ARGUMENT

Comes now David F. Yates, a member of the Bar of this Court and Counsel of Record for Petitioner in No. 82-1860, Schneider Moving & Storage Company, who, pursuant to Rules 38.3, 38.4, and 42, respectfully requests that in consolidated Cases Nos. 82-1860 and 82-1862 the number of counsel arguing for the Petitioners be increased from one to two and that the time for oral argument be expanded to a total of forty (40) minutes for the Petitioners' side. The following reasons are stated for these requests.

1. These are consolidated cases in which separate briefs have been filed for the Petitioners in 82-1860 and 82-1862.

2. Petitioner in Case No. 82-1860, Schneider Moving & Storage Company, has expressly requested that its case not be presented by counsel for Petitioner in Case No. 82-1862. The clients of Counsel in these consolidated cases perceive a conflict of interest which suggests an impropriety in having both cases argued by the same counsel. Therefore, in accordance with the Canons of Ethics, it is submitted that oral argument for each of the Petitioners should be presented by separate counsel.

3. The Petitioner in case No. 82-1862, Prosser's Moving and Storage Company, has raised an issue which the Petitioner Movant in No. 82-1860 has not raised and is not prepared to argue, to-wit: How broad is the right of the trustees of Taft-Hartley multiemployer employee benefit trust funds to audit employers' payroll records, as that issue is defined in Case No. 82-1862?

4. Counsel for Petitioners in the consolidated cases are unable to agree between themselves who will argue.

5. The Court granted certiorari in these cases to consider whether Taft-Hartley multiemployer employee benefit trust funds should be required to await exhaustion of the grievance and arbitration procedure in a collective bargaining agreement before filing suit in federal court for allegedly delinquent contributions where there are factual coverage issues subject to resolution under the contractual grievance and arbitration procedure. The facts in each of the cases are somewhat different and will allow the court to consider the issues in different factual settings. Counsel for each of the Petitioners is intimately familiar with the particular factual settings of the

case in which he has been involved and would therefore be able to assist the Court in consideration of the issues.

6. If this request is granted Counsel will coordinate the presentations to avoid duplication and to avoid wasting the Court's time.

7. Should the Court grant the request to increase the number of counsel arguing, it is respectfully requested that a total of 40 minutes be granted to Petitioners in order to adequately present the oral argument to the Court.

8. Counsel understands that Counsel in Case No. 82-1862 is presenting a similar request to the Court.

9. Counsel for the Respondent has stated that he has no objection to the grant of this request.

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David F. Yates

Counsel of Record for Petitioner
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CERTIFICATE OF SERVICE

I certify that on December 2, 1983, a true copy of the foregoing Motion was served on all Counsel of record in this proceeding by depositing two copies thereof in the United States Mail, postage prepaid, and addressed to:

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